

**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0094.02 Esther van Mourik x4215

SENATE BILL 12-150

SENATE SPONSORSHIP

Schwartz, Bacon, Renfroe

HOUSE SPONSORSHIP

Sonnenberg, Brown, Vigil

Senate Committees

Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE STATE TREASURER'S AUTHORITY TO MANAGE STATE**
102 **PUBLIC FINANCING.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Capital Development Committee. In order to provide more centralized management of the state's public financing structure, **section 1** of the bill requires the state treasurer to act as the issuing manager for certain approved issuances or incurrences of financial obligations by the state acting by and through any state agency. Section 1 also:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

- ! Specifies that the state treasurer has the sole discretion to manage the issuance or incurrence of such financial obligations, except for certain financial obligations of state institutions of higher education, subject to the criteria established in a state public financing policy to be promulgated pursuant to the bill;
- ! With respect to any state financial obligation, requires the state treasurer to, at minimum, determine the financing structure and term, decide the market timing, and select or hire, as applicable, the state financing team;
- ! Requires a state agency to provide written notice to the state treasurer of any anticipated issuance or incurrence of a financial obligation;
- ! Requires a state agency to provide the state treasurer with the information that the state treasurer considers necessary to act as the issuing manager for the issuance or incurrence of financial obligations and to comply with federal and state securities laws and contractual covenants;
- ! Requires the state treasurer, in performing his or her duties as the issuing manager, to consider any relevant factors that he or she considers necessary to protect the financial integrity of the state;
- ! Clarifies that the state treasurer is the elected representative and signatory for all forms required by the internal revenue code to be filed in connection with issuances or incurrences of financial obligations by the state acting by and through a state agency;
- ! Requires the state treasurer to collaborate with the state controller, the office of state planning and budgeting, bond counsel, the attorney general, and the capital development committee in developing and then promulgating by rule a state public financing policy and provides a list of items that must minimally be included in the policy;
- ! Requires all state institutions of higher education to report specific information to the state treasurer related to financial obligations, the principal amount of which is one million dollars or more, that the treasurer does not manage on an institution's behalf;
- ! Requires the department of transportation to report specific information to the state treasurer related to financial contracts or instruments;
- ! On and after July 1, 2012, requires the issuance or incurrence of every financial obligation that the state treasurer manages to include a specified amount to be paid to the state treasurer and credited to the state public

financing cash fund, which is created in the bill, to be used to reimburse the state treasurer for verifiable costs incurred in performing or overseeing the state's primary issuance compliance and post-issuance compliance responsibilities over the term of a financial obligation.

! Requires the state treasurer to create and maintain a correct and current inventory of all state-owned real property that is used as leased property or as collateral in any type of financial obligation. The state treasurer must annually provide a copy of the inventory to the capital development committee.

Section 2 of the bill requires a certain group of state agencies to notify the state treasurer when they enter into agreements for an exchange of interest rates, cash flows, or payments as provided in law.

Section 3 of the bill requires a qualified charter school to provide the state treasurer with certain information when the state treasurer authorizes expenditures from the state charter school debt reserve fund or the state charter school interest savings account of the fund.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-36-121 as
3 follows:

4 **24-36-121. Authority to manage state public financing - state**
5 **public financing cash fund - rules - legislative declaration -**
6 **definitions.** (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES,
7 AND DECLARES THAT:

8 (a) THE STATE'S PUBLIC FINANCING MATTERS ARE CURRENTLY
9 DECENTRALIZED. MANY STATE AGENCIES INCUR FINANCIAL OBLIGATIONS
10 AND DIRECTLY OR INDIRECTLY PLEDGE OR USE THE CREDIT OF THE STATE
11 WITHOUT CENTRALIZED MANAGEMENT.

12 (b) CENTRALIZED MANAGEMENT COULD HAVE A POSITIVE IMPACT
13 ON THE STATE'S CREDIT RATING BECAUSE CREDIT RATING AGENCIES
14 WOULD HAVE A CENTRALIZED POINT OF CONTACT WITH THE STATE FOR
15 STATE PUBLIC FINANCING MATTERS;

1 (c) THE ISSUANCE AND INCURRENCE OF FINANCIAL OBLIGATIONS
2 AND THE STATE'S OUTSTANDING FINANCIAL OBLIGATIONS SHOULD BE
3 MANAGED AS A WHOLE, BY PERSONNEL WITH FINANCIAL EXPERIENCE AND
4 SECURITIES MARKET UNDERSTANDING, SO THAT THE ISSUANCE AND
5 INCURRENCE OF STATE FINANCIAL OBLIGATIONS AND THE STATE'S
6 OUTSTANDING FINANCIAL OBLIGATIONS CAN BE MANAGED AS EFFICIENTLY
7 AND COST EFFECTIVELY AS POSSIBLE, ALLOWING THE STATE TO MAXIMIZE
8 REFINANCING OPPORTUNITIES;

9 (d) CENTRALIZED MANAGEMENT PROVIDES A BETTER METHOD OF
10 ENSURING THAT FEDERAL TAX AND SECURITIES LAW POST-ISSUANCE
11 COMPLIANCE REQUIREMENTS FOR STATE FINANCIAL OBLIGATIONS ARE MET
12 BY THE STATE;

13 (e) DUE TO CHANGES IN THE PUBLIC SECURITIES MARKET,
14 INCREASED REGULATORY REQUIREMENTS, EVOLVING CREDIT CRITERIA,
15 RECENT TECHNOLOGICAL DEVELOPMENTS, RECENT DOWNGRADING OF
16 CERTAIN GOVERNMENT CREDIT RATINGS, AND THE BENEFITS SET FORTH IN
17 THIS SUBSECTION (1), IT IS NECESSARY TO DESIGNATE THE STATE
18 TREASURER AS A CENTRALIZED MANAGER FOR THE ISSUANCE AND
19 INCURRENCE OF FINANCIAL OBLIGATIONS BY THE STATE ACTING BY AND
20 THROUGH A STATE AGENCY;

21 (f) IT IS ALSO IMPORTANT THAT THE STATE TREASURER DEVELOP
22 AND PROMULGATE A STATE PUBLIC FINANCING POLICY AND, IN SO DOING,
23 COLLABORATE WITH VARIOUS EXPERTS, INCLUDING BUT NOT LIMITED TO
24 THE STATE CONTROLLER, THE OFFICE OF STATE PLANNING AND
25 BUDGETING, BOND COUNSEL, AND THE ATTORNEY GENERAL. SUCH A
26 POLICY DEMONSTRATES A COMMITMENT TO LONG-TERM FINANCIAL
27 PLANNING, IDENTIFIES POLICY GOALS, PROVIDES FOR APPROPRIATE

1 FINANCING STRUCTURES, AND IMPROVES THE QUALITY OF
2 DECISION-MAKING. FURTHERMORE, CREDIT RATING AGENCIES, THE
3 FEDERAL INTERNAL REVENUE SERVICE, AND THE FEDERAL SECURITIES AND
4 EXCHANGE COMMISSION VIEW THE EXISTENCE OF STATE PUBLIC FINANCING
5 POLICIES FAVORABLY.

6 (g) SENATE BILL 12-____, ENACTED IN 2012, IS NOT INTENDED TO
7 GRANT THE STATE TREASURER ANY AUTHORITY THAT SUPERSEDES A
8 STATE AGENCY'S AUTHORITY TO ENTER INTO OR INCUR A FINANCIAL
9 OBLIGATION, NOR IS SENATE BILL 12-____ INTENDED TO AFFECT OTHER
10 STATE LAWS REGARDING THE GENERAL ASSEMBLY'S APPROVAL OF ANY
11 CAPITAL LEASE OR LEASE-PURCHASE AGREEMENT OVER FIVE HUNDRED
12 THOUSAND DOLLARS.

13 (2) NOTHING IN THIS SECTION AUTHORIZES THE STATE TREASURER
14 OR ANY OTHER PUBLIC AGENCY TO WAIVE AN ELECTION OTHERWISE
15 REQUIRED UNDER SECTION 20 OF ARTICLE X OR ARTICLE XI OF THE STATE
16 CONSTITUTION OR TO HOLD AN ELECTION INCONSISTENT WITH THE
17 ELECTION REQUIREMENTS OF SAID SECTION 20 OF ARTICLE X. REFERENCES
18 TO FINANCIAL OBLIGATIONS, DEBT, OR BONDS IN THIS SECTION ARE FOR
19 REFERENCE ONLY AND SHALL NOT BE CONSTRUED TO CREATE DEBT OR A
20 MULTIPLE FISCAL-YEAR FINANCIAL OBLIGATION CONTRARY TO SECTION 20
21 OF ARTICLE X OR ARTICLE XI OF THE STATE CONSTITUTION.

22 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
23 REQUIRES:

24 (a) (I) "FINANCIAL OBLIGATION" MEANS ANY FINANCIAL
25 CONTRACT, NOTE, WARRANT, BOND, CERTIFICATE, INSTRUMENT,
26 DEBENTURE, OR OTHER SECURITY, THE PRINCIPAL AMOUNT OF WHICH IS
27 ONE MILLION DOLLARS OR MORE, THAT IS AUTHORIZED TO BE ISSUED OR

1 ENTERED INTO BY THE STATE ACTING BY AND THROUGH A STATE AGENCY
2 UNDER THE LAWS OF THIS STATE, THAT IS FULLY OR PARTIALLY SECURED
3 BY ANY STATE REVENUES, AND THAT IS DIRECTLY OR INDIRECTLY RELATED
4 TO THE STATE'S CREDIT RATING. "FINANCIAL OBLIGATION" INCLUDES, BUT
5 IS NOT LIMITED TO:

6 (A) ANY CAPITAL LEASE OR LEASE-PURCHASE AGREEMENT THE
7 PRINCIPAL AMOUNT OF WHICH IS ONE MILLION DOLLARS OR MORE
8 AUTHORIZED PURSUANT TO SECTION 24-82-102 AND PART 8 OF ARTICLE 82
9 OF THIS TITLE; AND

10 (B) ANY PAYMENT OBLIGATION CONSTITUTING A PORTION OF OR
11 RELATED TO AN ENERGY PERFORMANCE CONTRACT AS DEFINED IN SECTION
12 24-30-2001 (1) OR A CAPITAL PROJECT FINANCED THROUGH A UTILITY
13 COST-SAVINGS CONTRACT AUTHORIZED BY SECTION 24-38.5-106.

14 (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH
15 (a), FOR PURPOSES OF THE DEPARTMENT OF TRANSPORTATION, "FINANCIAL
16 OBLIGATION" DOES NOT INCLUDE:

17 (A) ANY FINANCIAL CONTRACT, NOTE, WARRANT, BOND,
18 CERTIFICATE, INSTRUMENT, DEBENTURE, OR OTHER CONTRACT,
19 AGREEMENT, OR SECURITY THAT IS AUTHORIZED TO BE ISSUED OR
20 ENTERED INTO BY OR IN SUPPORT OF SUCH OBLIGATIONS OF THE
21 HIGH-PERFORMANCE TRANSPORTATION ENTERPRISE CREATED IN SECTION
22 43-4-806 (2), C.R.S.; AND

23 (B) ANY FINANCIAL CONTRACT, NOTE, WARRANT, BOND,
24 CERTIFICATE, INSTRUMENT, DEBENTURE, OR OTHER CONTRACT,
25 AGREEMENT, OR SECURITY THAT IS AUTHORIZED TO BE ISSUED OR
26 ENTERED INTO BY OR IN SUPPORT OF SUCH OBLIGATIONS OF THE
27 STATEWIDE BRIDGE ENTERPRISE CREATED IN SECTION 43-4-805 (2), C.R.S.

1 (b) "INTERNAL REVENUE CODE" MEANS THE FEDERAL "INTERNAL
2 REVENUE CODE OF 1986", AS AMENDED, AND ANY REGULATIONS
3 THEREUNDER.

4 (c) (I) "STATE AGENCY" MEANS A DEPARTMENT, BOARD, BUREAU,
5 COMMISSION, DIVISION, INSTITUTION, QUASI-GOVERNMENTAL ENTITY, OR
6 OTHER AGENCY OR INSTRUMENTALITY OF THE STATE, INCLUDING A STATE
7 INSTITUTION OF HIGHER EDUCATION. "STATE AGENCY" ALSO INCLUDES AN
8 ENTERPRISE, AS DEFINED IN SECTION 24-77-102 (3), A NONPROFIT
9 CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE AND CREATED
10 SOLELY FOR THE PURPOSE OF ISSUING FINANCIAL OBLIGATIONS ON BEHALF
11 OF THE STATE ACTING BY AND THROUGH A STATE AGENCY, AND A TRUST
12 THAT MAY BE FORMED BY THE STATE OR A STATE AGENCY TO IMPLEMENT
13 CAPITAL LEASE OR LEASE-PURCHASE FINANCING.

14 (II) "STATE AGENCY" DOES NOT INCLUDE:

15 (A) A COUNTY OR CITY AND COUNTY;

16 (B) A MUNICIPALITY;

17 (C) A SCHOOL DISTRICT;

18 (D) A CHARTER SCHOOL;

19 (E) A WATER CONSERVANCY DISTRICT;

20 (F) COLLEGEINVEST AS DESCRIBED IN SECTION 23-3.1-205.5,
21 C.R.S.;

22 (G) A DISTRICT OR AUTHORITY ORGANIZED OR ACTING PURSUANT
23 TO THE PROVISIONS OF TITLE 29, 30, 31, OR 32, C.R.S.;

24 (H) A SPECIAL PURPOSE AUTHORITY LISTED IN SECTION 24-77-102
25 (15) (b); OR

26 (I) ANY OTHER POLITICAL SUBDIVISION OF THE STATE OR OTHER
27 ENTITY THAT CONSTITUTES A LOCAL PUBLIC BODY AS DEFINED IN SECTION

1 24-6-402 (1) (a).

2 (d) "STATE INSTITUTION OF HIGHER EDUCATION" HAS THE SAME
3 MEANING AS SET FORTH IN SECTION 23-18-102 (10), C.R.S. FOR PURPOSES
4 OF THIS SECTION, "STATE INSTITUTION OF HIGHER EDUCATION" ALSO
5 INCLUDES THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN
6 ARTICLE 70 OF TITLE 23, C.R.S.

7 (e) "STATE REVENUES" MEANS ALL INCOME OF THE STATE THAT IS
8 RECEIVED INTO THE STATE TREASURY FROM TAXES, FEES, AND OTHER
9 SOURCES AND APPROPRIATED FOR THE PAYMENT OF THE STATE'S
10 EXPENSES.

11 (4) (a) (I) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY
12 AND EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a),
13 FOR THE 2012-13 STATE FISCAL YEAR AND EACH STATE FISCAL YEAR
14 THEREAFTER, WHEN A STATE AGENCY OBTAINS THE REQUIRED APPROVAL
15 FOR THE FINANCING OF A CAPITAL PROJECT AS SPECIFIED IN LAW, THE
16 STATE TREASURER SHALL ACT AS THE ISSUING MANAGER, SUBJECT TO THE
17 CRITERIA ESTABLISHED IN THE STATE PUBLIC FINANCING POLICY
18 PROMULGATED AS SPECIFIED IN SUBSECTION (5) OF THIS SECTION, FOR ALL
19 APPROVED FINANCIAL OBLIGATIONS OF THE STATE ACTING BY AND
20 THROUGH A STATE AGENCY. THE STATE TREASURER HAS THE SOLE
21 DISCRETION TO MANAGE THE ISSUANCE OR INCURRENCE OF FINANCIAL
22 OBLIGATIONS OF THE STATE ACTING BY AND THROUGH A STATE AGENCY,
23 INCLUDING ALL POST-ISSUANCE COMPLIANCE WITH FEDERAL AND STATE
24 TAX AND SECURITIES LAWS, SUCH AS ARBITRAGE, REBATE, AND REMEDIAL
25 ACTION REQUIREMENTS. THE STATE TREASURER'S DUTIES WITH RESPECT
26 TO THE MANAGEMENT OF THE ISSUANCE OR INCURRENCE OF FINANCIAL
27 OBLIGATIONS INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

1 (A) DETERMINING THE FINANCING STRUCTURE AND TERM;

2 (B) DECIDING THE MARKET TIMING;

3 (C) SELECTING OR HIRING, AS APPLICABLE, THE STATE FINANCING
4 TEAM, INCLUDING, WHERE APPROPRIATE, THE LESSOR, PURCHASER,
5 UNDERWRITER, BOND OR DISCLOSURE COUNSEL, TRUSTEE, ESCROW AGENT,
6 PAYING AGENT, CREDIT ENHANCER, RATING AGENCY, PLACEMENT AGENT,
7 LIQUIDITY PROVIDER, CREDIT SUPPORT PROVIDER, INTEREST RATE
8 EXCHANGE AGREEMENT COUNTERPARTY, AND FINANCIAL ADVISOR;

9 (D) DETERMINING THE ADVISABILITY OF A STATE AGENCY
10 ENTERING INTO AN INTEREST RATE EXCHANGE AGREEMENT PURSUANT TO
11 ARTICLE 59.3 OF TITLE 11, C.R.S.; AND

12 (E) DETERMINING WHETHER TO ENTER INTO COMPETITIVE OR
13 NEGOTIATED SALES OF FINANCIAL OBLIGATIONS.

14 (II) FOR A STATE INSTITUTION OF HIGHER EDUCATION, FOR THE
15 2012-13 STATE FISCAL YEAR AND EACH STATE FISCAL YEAR THEREAFTER,
16 THE STATE TREASURER SHALL ACT AS THE ISSUING MANAGER, SUBJECT TO
17 THE CRITERIA ESTABLISHED IN THE STATE PUBLIC FINANCING POLICY
18 PROMULGATED AS SPECIFIED IN SUBSECTION (5) OF THIS SECTION, FOR ANY
19 LEASE-PURCHASE AGREEMENT SIMILAR TO THOSE AUTHORIZED IN SECTION
20 23-1-106.3, C.R.S., AND ANY FINANCIAL CONTRACT, NOTE, WARRANT,
21 BOND, CERTIFICATE, INSTRUMENT, DEBENTURE, OR OTHER SECURITY, THE
22 PRINCIPAL AMOUNT OF WHICH IS ONE MILLION DOLLARS OR MORE, THAT IS
23 AUTHORIZED UNDER THE LAWS OF THIS STATE TO BE ISSUED OR ENTERED
24 INTO BY THE STATE ACTING BY AND THROUGH A STATE AGENCY OTHER
25 THAN A STATE INSTITUTION OF HIGHER EDUCATION AND THAT FINANCES
26 IMPROVEMENTS THAT BENEFIT A STATE INSTITUTION OF HIGHER
27 EDUCATION. THE STATE TREASURER HAS THE SOLE DISCRETION TO

1 MANAGE THE ISSUANCE OR INCURRENCE OF SUCH FINANCIAL OBLIGATIONS
2 FOR A STATE INSTITUTION OF HIGHER EDUCATION AND SHALL MANAGE THE
3 ISSUANCE OR INCURRENCE OF SUCH FINANCIAL OBLIGATIONS IN
4 ACCORDANCE WITH THE DUTIES SET FORTH IN SUB-SUBPARAGRAPHS (A)
5 TO (E) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a). THE STATE
6 TREASURER SHALL NOT ACT AS THE ISSUING MANAGER FOR ANY BONDS
7 SUBJECT TO THE HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM
8 ESTABLISHED IN SECTION 23-5-139, C.R.S.

9 (b) (I) (A) NOT LESS THAN SIXTY DAYS PRIOR TO THE DATE ON
10 WHICH A STATE AGENCY EXPECTS THAT A FINANCIAL OBLIGATION OF THE
11 STATE ACTING BY AND THROUGH THE STATE AGENCY WILL BE INCURRED,
12 A STATE AGENCY SHALL PROVIDE WRITTEN NOTICE TO THE STATE
13 TREASURER OF THAT EXPECTATION.

14 (B) NOT LESS THAN THIRTY DAYS PRIOR TO THE DATE ON WHICH
15 A STATE AGENCY EXPECTS THAT A REFINANCING OF A FINANCIAL
16 OBLIGATION OF THE STATE ACTING BY AND THROUGH THE STATE AGENCY
17 WILL BE INCURRED, A STATE AGENCY SHALL PROVIDE WRITTEN NOTICE TO
18 THE STATE TREASURER OF THAT EXPECTATION.

19 (II) THE STATE AGENCY SHALL PROVIDE THE STATE TREASURER
20 WITH THE INFORMATION THAT THE STATE TREASURER CONSIDERS
21 NECESSARY TO ACT AS THE ISSUING MANAGER FOR THE ISSUANCE OR
22 INCURRENCE OF THE FINANCIAL OBLIGATION, INCLUDING, IF NECESSARY,
23 ASSUMPTIONS OF UNDERLYING CASH FLOW PROJECTIONS ASSOCIATED
24 WITH THE REPAYMENT OF THE FINANCIAL OBLIGATION. THE STATE
25 AGENCY SHALL PROVIDE THE STATE TREASURER WITH THE INFORMATION
26 THAT THE STATE TREASURER CONSIDERS NECESSARY TO COMPLY WITH
27 FEDERAL AND STATE TAX AND SECURITIES LAWS AND CONTRACTUAL

1 COVENANTS.

2 (c) IN PERFORMING HIS OR HER DUTIES AS THE ISSUING MANAGER,
3 THE STATE TREASURER SHALL CONSIDER ANY RELEVANT FACTORS THAT
4 THE STATE TREASURER CONSIDERS NECESSARY TO PROTECT THE
5 FINANCIAL INTEGRITY OF THE STATE.

6 (d) THE STATE TREASURER IS THE ELECTED REPRESENTATIVE FOR
7 THE PURPOSE OF APPROVING THE ISSUANCE OR INCURRENCE OF FINANCIAL
8 OBLIGATIONS BY THE STATE ACTING BY AND THROUGH A STATE AGENCY
9 WHEN SUCH APPROVAL IS REQUIRED UNDER THE INTERNAL REVENUE CODE
10 AND IS THE REQUIRED SIGNATORY ON ALL FORMS REQUIRED BY THE
11 FEDERAL INTERNAL REVENUE SERVICE TO BE FILED IN CONNECTION WITH
12 THE ISSUANCE OR INCURRENCE OF FINANCIAL OBLIGATIONS BY THE STATE
13 ACTING BY AND THROUGH A STATE AGENCY.

14 (5) NO LATER THAN NINETY DAYS AFTER THE EFFECTIVE DATE OF
15 THIS SECTION, THE STATE TREASURER SHALL PROMULGATE BY RULE, IN
16 ACCORDANCE WITH ARTICLE 4 OF THIS TITLE, A STATE PUBLIC FINANCING
17 POLICY, AND, IN SO DOING, SHALL COLLABORATE WITH VARIOUS EXPERTS,
18 INCLUDING BUT NOT LIMITED TO THE STATE CONTROLLER, THE OFFICE OF
19 STATE PLANNING AND BUDGETING, BOND COUNSEL, AND THE ATTORNEY
20 GENERAL. THE STATE TREASURER SHALL PRESENT THE STATE PUBLIC
21 FINANCING POLICY TO THE CAPITAL DEVELOPMENT COMMITTEE AT THE
22 EARLIEST MEETING OF THE CAPITAL DEVELOPMENT COMMITTEE AT WHICH
23 TIME IS AVAILABLE IN THE MEETING SCHEDULE AFTER THE POLICY IS
24 FINALIZED AND SHALL PROVIDE A COPY OF THE FINAL STATE PUBLIC
25 FINANCING POLICY TO THE JOINT BUDGET COMMITTEE. THE STATE
26 TREASURER SHALL NOTIFY THE CAPITAL DEVELOPMENT COMMITTEE AND
27 THE JOINT BUDGET COMMITTEE, IN WRITING, OF ANY SUBSTANTIVE

1 CHANGES THAT ARE SUBSEQUENTLY MADE TO THE STATE PUBLIC
2 FINANCING POLICY. FOR PURPOSES OF THIS SUBSECTION (5), THE
3 ATTORNEY GENERAL IS THE LEGAL ADVISOR TO THE STATE TREASURER.
4 THE STATE PUBLIC FINANCING POLICY SHALL INCLUDE, BUT SHALL NOT BE
5 LIMITED TO, THE FOLLOWING COMPONENTS:

- 6 (a) THE USE OF MORAL OBLIGATION PLEDGES;
- 7 (b) THE CRITERIA FOR THE ISSUANCE OR INCURRENCE OF
8 FINANCIAL OBLIGATIONS BY THE STATE ACTING BY AND THROUGH A STATE
9 AGENCY;
- 10 (c) THE USE OF DERIVATIVES;
- 11 (d) THE USE OF VARIABLE RATE FINANCIAL OBLIGATIONS;
- 12 (e) CREDIT OBJECTIVES;
- 13 (f) THE STRUCTURING PRACTICES FOR EACH TYPE OF FINANCIAL
14 OBLIGATION, INCLUDING, BUT NOT LIMITED TO, INFORMATION ABOUT THE
15 TERM, MATURITY, AND TYPE OF INTEREST;
- 16 (g) ACCEPTABLE METHODS OF SALE;
- 17 (h) POLICIES FOR DETERMINING WHEN SELECTION OF EXTERNAL
18 FINANCIAL PROFESSIONALS IS APPROPRIATE;
- 19 (i) POLICIES RELATED TO THE REFUNDING OF FINANCIAL
20 OBLIGATIONS;
- 21 (j) POLICIES RELATED TO PRIMARY AND CONTINUING DISCLOSURE
22 REQUIREMENTS FOR FINANCIAL OBLIGATIONS;
- 23 (k) POLICIES RELATED TO POST-ISSUANCE COMPLIANCE WITH
24 FEDERAL AND STATE TAX AND SECURITIES LAWS, INCLUDING ARBITRAGE,
25 REBATE, AND REMEDIAL ACTION REQUIREMENTS; AND
- 26 (l) POLICIES FOR INVESTMENT OF PROCEEDS WHERE NOT
27 OTHERWISE COVERED BY LAW.

1 (6) (a) NO LATER THAN TEN DAYS AFTER A STATE INSTITUTION OF
2 HIGHER EDUCATION ENTERS INTO OR ISSUES A FINANCIAL OBLIGATION IN
3 A PRINCIPAL AMOUNT OF ONE MILLION DOLLARS OR MORE THAT IS
4 SECURED IN WHOLE OR IN PART BY STATE REVENUES OR REVENUES OF THE
5 INSTITUTION AND THAT THE STATE TREASURER DOES NOT MANAGE
6 PURSUANT TO SUBSECTION (4) OF THIS SECTION, INCLUDING ANY BONDS
7 SUBJECT TO THE HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM
8 ESTABLISHED IN SECTION 23-5-139, C.R.S., THE STATE INSTITUTION OF
9 HIGHER EDUCATION SHALL NOTIFY THE STATE TREASURER THAT IT HAS
10 ENTERED INTO THE FINANCIAL OBLIGATION. THE NOTIFICATION SHALL
11 INCLUDE AT LEAST THE FOLLOWING INFORMATION:

12 (I) A COPY OF ANY OFFICIAL STATEMENT OR OTHER OFFERING
13 DOCUMENT FOR THE ISSUANCE OR INCURRENCE OF THE FINANCIAL
14 OBLIGATION;

15 (II) A COPY OF ANY FILINGS OR CORRESPONDENCE WITH THE
16 FEDERAL INTERNAL REVENUE SERVICE WITH RESPECT TO THE ISSUANCE OR
17 INCURRENCE, INCLUDING, IF APPLICABLE, A COPY OF EACH FORM 8038 OR
18 FORM 8038G;

19 (III) A COPY OF THE CONTINUING DISCLOSURE UNDERTAKING; AND

20 (IV) ANY OTHER INFORMATION THAT IS DESCRIBED IN THE STATE
21 PUBLIC FINANCING POLICY PROMULGATED PURSUANT TO SUBSECTION (5)
22 OF THIS SECTION RELATED TO THE ISSUANCE OR INCURRENCE.

23 (b) NO LATER THAN TEN DAYS AFTER THE HIGH-PERFORMANCE
24 TRANSPORTATION ENTERPRISE CREATED IN SECTION 43-4-806 (2), C.R.S.,
25 OR THE STATEWIDE BRIDGE ENTERPRISE CREATED IN SECTION 43-4-805 (2),
26 C.R.S., ENTERS INTO THE FINANCIAL CONTRACTS OR INSTRUMENTS
27 SPECIFIED IN SUB-SUBPARAGRAPHS (A) AND (B) OF SUBPARAGRAPH (II) OF

1 PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION, THE ENTERPRISES
2 SHALL NOTIFY THE STATE TREASURER THAT THEY HAVE ENTERED INTO OR
3 ISSUED SUCH A FINANCIAL CONTRACT OR INSTRUMENT. THE NOTIFICATION
4 SHALL INCLUDE AT LEAST THE FOLLOWING INFORMATION:

5 (I) A COPY OF ANY OFFICIAL STATEMENT OR OTHER OFFERING
6 DOCUMENT FOR THE ISSUANCE OR INCURRENCE OF SUCH A FINANCIAL
7 CONTRACT OR INSTRUMENT;

8 (II) A COPY OF ANY FILINGS OR CORRESPONDENCE WITH THE
9 FEDERAL INTERNAL REVENUE SERVICE WITH RESPECT TO THE ISSUANCE OR
10 INCURRENCE, INCLUDING, IF APPLICABLE, A COPY OF EACH FORM 8038 OR
11 FORM 8038G;

12 (III) A COPY OF THE CONTINUING DISCLOSURE UNDERTAKING; AND

13 (IV) ANY OTHER INFORMATION THAT IS DESCRIBED IN THE STATE
14 PUBLIC FINANCING POLICY PROMULGATED PURSUANT TO SUBSECTION (5)
15 OF THIS SECTION RELATED TO THE ISSUANCE OR INCURRENCE.

16 (7) (a) ON AND AFTER JULY 1, 2012, THE ISSUANCE OR
17 INCURRENCE OF EVERY FINANCIAL OBLIGATION BY THE STATE ACTING BY
18 AND THROUGH A STATE AGENCY THAT THE STATE TREASURER MANAGES
19 PURSUANT TO SUBSECTION (4) OF THIS SECTION SHALL INCLUDE, TO THE
20 EXTENT ALLOWED BY THE INTERNAL REVENUE CODE, AN AMOUNT
21 DETERMINED BY THE STATE TREASURER NOT TO EXCEED THE LESSER OF
22 ONE HUNDRED THOUSAND DOLLARS OR TWO PERCENT OF THE PRINCIPAL
23 PROCEEDS OF THE ISSUANCE OR INCURRENCE TO BE PAID TO THE STATE
24 TREASURER. THE STATE TREASURER SHALL CREDIT THE MONEYS TO THE
25 STATE PUBLIC FINANCING CASH FUND, WHICH IS HEREBY CREATED IN THE
26 STATE TREASURY. THE FUND CONSISTS OF MONEYS DEPOSITED IN THE
27 FUND PURSUANT TO THIS PARAGRAPH (a) AND SHALL BE USED SOLELY FOR

1 THE PURPOSES DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (7). THE
2 MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE STATE
3 TREASURER. ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE
4 FUND AND ALL INTEREST AND INCOME EARNED ON THE DEPOSIT AND
5 INVESTMENT OF MONEYS IN THE FUND SHALL REMAIN IN THE FUND AND
6 SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE
7 END OF A FISCAL YEAR.

8 (b) TO THE EXTENT PERMITTED BY BOND COUNSEL, THE MONEYS
9 IN THE STATE PUBLIC FINANCING CASH FUND SHALL BE USED TO
10 REIMBURSE THE STATE TREASURER FOR VERIFIABLE COSTS INCURRED IN
11 PERFORMING OR OVERSEEING THE STATE'S PRIMARY ISSUANCE
12 COMPLIANCE AND POST-ISSUANCE COMPLIANCE RESPONSIBILITIES OVER
13 THE TERM OF A FINANCIAL OBLIGATION, INCLUDING COMPLYING WITH OR
14 MONITORING COMPLIANCE WITH THE REQUIREMENTS OF THE INTERNAL
15 REVENUE CODE, MAKING PUBLIC DISCLOSURES OR CONTINUING
16 DISCLOSURE UNDERTAKINGS REQUIRED PURSUANT TO FEDERAL SECURITIES
17 LAWS OR ENSURING THAT SUCH DISCLOSURES ARE MADE, AND
18 PERFORMING OR COORDINATING REQUIREMENTS IN CONNECTION WITH THE
19 FINANCIAL OBLIGATION.

20 (8) NO LATER THAN NINETY DAYS AFTER THE EFFECTIVE DATE OF
21 THIS SECTION, THE STATE TREASURER SHALL CREATE AND MAINTAIN A
22 CORRECT AND CURRENT INVENTORY OF ALL STATE-OWNED REAL
23 PROPERTY DESCRIBED IN SECTION 24-30-1303.5 THAT IS LEASED PROPERTY
24 OR COLLATERAL IN ANY TYPE OF FINANCIAL OBLIGATION. THE STATE
25 TREASURER SHALL ANNUALLY PROVIDE A COPY OF THE INVENTORY TO THE
26 CAPITAL DEVELOPMENT COMMITTEE.

27 **SECTION 2.** In Colorado Revised Statutes, 11-59.3-103, **add**

1 (10) as follows:

2 **11-59.3-103. Interest rate exchange agreements.** (10) ANY
3 STATE AGENCY, AS DEFINED IN SECTION 24-36-121 (3) (c), C.R.S., SHALL
4 NOTIFY THE STATE TREASURER WHEN IT ENTERS INTO AN AGREEMENT FOR
5 AN EXCHANGE OF INTEREST RATES, CASH FLOWS, OR PAYMENTS AS
6 PROVIDED IN THIS SECTION.

7 **SECTION 3.** In Colorado Revised Statutes, 22-30.5-408, **add** (2)
8 (d) as follows:

9 **22-30.5-408. Replenishment of qualified charter school debt**
10 **service reserve funds - additional responsibilities - state treasurer -**
11 **qualified charter schools - definitions.** (2) (d) UPON THE EXPENDITURE
12 OF MONEYS FROM THE STATE CHARTER SCHOOL DEBT RESERVE FUND OR
13 THE STATE CHARTER SCHOOL INTEREST SAVINGS ACCOUNT OF THE FUND
14 BY THE STATE TREASURER, A QUALIFIED CHARTER SCHOOL SHALL PROVIDE
15 THE STATE TREASURER WITH AT LEAST THE FOLLOWING INFORMATION:

16 (I) A COPY OF ANY OFFICIAL STATEMENT OR OTHER OFFERING
17 DOCUMENT FOR THE ISSUANCE OR INCURRENCE OF THE FINANCIAL
18 OBLIGATION OF THE QUALIFIED CHARTER SCHOOL;

19 (II) A COPY OF ANY FILINGS OR CORRESPONDENCE WITH THE
20 FEDERAL INTERNAL REVENUE SERVICE WITH RESPECT TO THE ISSUANCE OR
21 INCURRENCE, INCLUDING, IF APPLICABLE, A COPY OF EACH FORM 8038 OR
22 FORM 8038G;

23 (III) A COPY OF THE CONTINUING DISCLOSURE UNDERTAKING; AND

24 (IV) ANY OTHER INFORMATION THAT IS DESCRIBED IN THE STATE
25 PUBLIC FINANCING POLICY PROMULGATED PURSUANT TO SECTION
26 24-36-121 (5), C.R.S., RELATED TO THE ISSUANCE OR INCURRENCE.

27 **SECTION 4. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.